

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FRANK MCCONNEL, WILLIAM TORMEY, ANNE
RANDALL, DENNIS ELLERMEIER, GREG HOHANNESSEN, JASON
LEWIS, & EDWARD LENOIR

Appeal 2008-1757
Application 09/658,770
Technology Center 3600

Mailed: October 21, 2008

Before DALE M. SHAW, *Chief Appeals Administrator*
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on February 6, 2008. A docketing notice was mailed and Appeal No. 2008-1757 was assigned February 15, 2008. A review of the application has revealed that the application was not ready for

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an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 1, and 3-7 of the instant application are set forth as method claims that may not fall with one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008 the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled "Clarification of "Processes" under 35 U.S.C. § 101." This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. There is a question as to whether claims 1, and 3-7 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 1, and 3-7 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS\lv

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